

GUARDIANSHIP AND ADMINISTRATION AMENDMENT (MEDICAL RESEARCH) BILL 2023

Second Reading

Resumed from 21 June.

MR S.A. MILLMAN (Mount Lawley — Parliamentary Secretary) [1.00 pm]: I rise to make a contribution to the debate on this excellent piece of legislation, which I am fully in support of, and I thank the Attorney General for his tireless efforts in bringing this legislation back before the Parliament. As every member in this chamber knows, I am passionate about putting in place the architecture, regulatory framework and environment in which our world-class WA medical researchers can continue to discharge their passion and commitment so that we can maintain our world-leading health system in Western Australia. We would not be able to maintain that world-leading health system were it not for the work of those medical researchers. That work has been under some duress as a result of a sunset clause that had been inserted into a previous version of this legislation—a sunset clause that we now have to deal with under this legislation—which called into question the viability of research projects being undertaken.

Through my previous contributions, people know how proud I am of the work that this Cook government, and the former McGowan Labor government, has done to elevate and promote medical research in Western Australia. Since 2017, the sustainable health review, which mentions research more than a hundred times as a key priority for any future government, but particularly for a future WA Labor government, has been part of the indelible architecture of our health system. At a cabinet level, for the first time, we have a minister responsible for medical research. As a result of the work undertaken by the Premier when he was Minister for Health, we have had the introduction of the future health research and innovation fund. The then McGowan and now Cook Labor government has put medical research front and centre of our efforts to make sure that our world-class health system continues to evolve, adapt and respond to challenges.

I will outline the history of this legislation. The previous government attempted to amend the Guardianship and Administration Act. A report was completed in 2015. Unfortunately, because of that government's ambivalence to medical research, former Attorney General Michael Mischin did not progress that report.

Dr A.D. Buti: They did nothing.

Mr S.A. MILLMAN: Missing in action, some might say. No progress was made on that report, which would have had the support of the then Labor opposition, because we know how important medical research is.

Let us fast forward to 2017. We had the state election and the change in government in 2017, and we had Hon Roger Cook as Minister for Health and Hon John Quigley as Attorney General. Through their concerted efforts, they were able to take up the work that the public servants, researchers, academics and stakeholders had done—albeit in the context of COVID and therefore passed as a matter of expedition—and were able to introduce sound, sensible, well thought through, well-argued and well-reasoned amendments to the Guardianship and Administration Act that would expedite critical medical research.

Unfortunately, despite the overwhelming weight of evidence that supported the introduction of that legislation, in order to get that legislation passed, because we did not have the numbers in the upper house, the government of the day had to agree to an amendment to introduce a sunset clause. That sunset clause now exists; like a sword of Damocles, it is hanging over our hardworking medical researchers, who are unsure about what the future might hold for them. That sunset clause was the work of none other than Michael Mischin. I might have said subsequently, because I have raised this issue before, that perhaps the architect of that was Hon Nick Goiran, but I was wrong; the architect was Hon Michael Mischin. Today, we are in a situation whereby this is the latest piece of the puzzle that the Cook Labor government is introducing in order to facilitate and expedite medical research.

Let me go through some of the things that I have already flagged. Members will recall that during my first term as the member for Mount Lawley, I had the opportunity to travel to Israel with the then Minister for Health, now Premier, Roger Cook, specifically with a view to determine how we could increase innovation translation and venture capital funding for our medical research ecosystem here in Western Australia. As members know and as I have said often, we have world-class researchers and world-class research institutes in WA. Consequent upon that travel, the then Minister for Health returned to Western Australia and advocated in the cabinet to the Treasurer and the Premier for the establishment of a future health research and innovation fund. Just this morning, I had the opportunity to attend a terrific conference that is taking place in the member for Scarborough's electorate at the Rendezvous Hotel. The conference is being held by the Society for Mental Health Research, which is an incredible organisation. This is what the society says on its website about medical research. I am quoting Professor Stephen Wood, who is listed as the president, although that might have recently changed. He said —

Research is fundamental to developing and implementing effective mental health interventions and initiatives to address these issues.

That is, issues of mental health. He continues —

Thanks to medical research, mortality and recovery rates in cancers and cardiovascular diseases have significantly improved, there are earlier and improved diagnostics and safer, more personalised treatments that have transformed the lives of people living with these diseases.

The Society for Mental Health Research is on a mission to promote the same sort of success in the field of mental health. It was an incredibly rewarding experience to see early and mid-career stage researchers coming together to collaborate at the society's forty-third national conference with a view to identifying people and place and how we can tackle the mental health challenges that are presented in a post-COVID environment. I was very honoured to open that conference today. While I was there, I was able to talk about the sustainable health review, which I will come back to shortly.

I want to talk about the work of the future health research and innovation fund. I acknowledge the chair, John Van Der Wielen, and the work he does in that difficult and rewarding role. The fund was established by the WA government to improve the health and wellbeing of Western Australians, improve the efficiency of the WA health system, increase the economic prosperity of WA and advance our state's standing as a centre of excellence in health and medical research, innovation and commercialisation. Since the fund was established, more than \$100 million in grants have been awarded to support health and medical research and innovation in Western Australia. We can expect to see more exciting programs and initiatives funded, with approximately \$250 million available as part of the FHRI fund over the next four years. In fact, just yesterday, the Minister for Medical Research announced that the FHRI fund has awarded grants of more than \$9.9 million for innovation research, of which a substantial proportion has been dedicated to mental health research. The FHRI's innovation challenge in child mental health was launched in 2021 and has now come to an end, with the announcement of three program winners awarded more than \$4.4 million. I will identify those three programs so that people can see how important this medical research is and how it touches the lives of everyday Western Australians. The first program involved a simple genetic test to reduce medication variations for children and youth living with mental health conditions. The second was a child and youth mental health project to improve treatment access in rural and regional WA, something that I know the member for Moore is passionate about, in collaboration with health service providers. The third was an innovative digital and culturally appropriate app to help improve hearing and mental health outcomes for Aboriginal and Torres Strait Islander children. These three terrific projects, involving cutting-edge medical research, will only benefit the consumers of health services in Western Australia.

The future health research and innovation fund's distinguished fellows program has also awarded grants to two outstanding and innovative researchers to lead substantial and high-quality research programs in WA. One of those recipients, Associate Professor Kathryn Modecki, is a world-class mental health researcher. She will share her experience with participants at the conference and will talk particularly about advanced quantitative methods and family mental health. She is listed as the keynote speaker for Friday. Even today, we can see that the steps taken by the then McGowan and now Cook Labor governments to promote, prioritise and encourage investment in medical research are bearing fruit and coming to fruition.

As I said, I have been concerned about this issue. I beg the Attorney General's forgiveness for hassling him on so many occasions to check on the progress of this legislation, but my constituents and the stakeholders who contacted me were anxious to make sure that the legislation would be introduced, be passed and take effect before the irresponsible sunset clause that the opposition put in comes into effect in April next year. I have already corrected the record insofar as the former Attorney General is concerned, and I hope that that satisfies Hon Nick Goiran in the other place. The Attorney General will remember that I raised this matter as a grievance back in November last year. In fact, on that occasion I was able to highlight the great work that Spinnaker Health Research Foundation was doing. For those who do not know, Spinnaker is the medical research unit that is attached to the South Metropolitan Health Service. Each of our HSPs has a research institute attached. Great work is being undertaken by Spinnaker and its CEO, Dana Henderson, and chair, Andrew Friars. I also want to acknowledge the chair of the South Metro Health Service, Associate Professor Robyn Collins. When I raised this grievance, I acknowledged the work they had done. I also want to acknowledge the work done by the Australasian College for Emergency Medicine, which regularly engages with the WA government. The Australasian College for Emergency Medicine has been instrumental in assisting the Minister for Health in tackling ambulance ramping and the challenges presented by the post-COVID environment in which all health systems are operating.

I pay particular gratitude to the chair of the college; Peter Allely, who has frequently worked with the minister; and Daniel Fatovich, who is in the Speaker's gallery, for the work they have done. I also acknowledge Professor Tony Celenza and, from my own electorate of Mount Lawley, Stephen Macdonald. They are great advocates. It is fair to say that they have been on my case to make sure that we get this done! These people had raised their concerns about needing to ensure that the legislative framework is in place to guarantee that the work of the people whom they represent—the early career, mid-career and experienced researchers—can continue, not just for their benefit but for the benefit of the entire community of Western Australia. When I raised this grievance with the Attorney General,

I made the point that even within the time that the original iteration of the legislation had been operating—between 2020 and 2022—we had already seen some terrific results as a result of the change in the research landscape. The example I gave was a comparative effectiveness trial that found that outcomes were much more positive for patients over 65 years who did not receive treatment involving medicine than for those who did. WA is now one of the leading sites around the country for this trial. This research will save and improve thousands of lives around the world every year.

While I was making my grievance to the Attorney General, I also raised issues that had been brought to my attention by eminent jurists, including none other than Hon Eric Heenan, QC. He was among the authors of an article headed “Keeping ethics at the forefront of medical research: The Guardianship and Administration Amendment (Medical Research) Act (WA) 2020”. I know that Hon Justice Heenan has also raised this legislation with the Attorney General. The voices on the side of the debate that supported the initiative undertaken by the McGowan government with the now Premier, the then Minister for Health, leading the charge with the Attorney General—the legislation that was introduced in 2020—are the same voices who expressed their concern to me about the sunset clause that had been imposed by the Legislative Council. We can understand why. The development of this legislation was not rushed. It did not happen overnight. It was deliberate, thoughtful and long in the planning. In fact, it had been on the desk of Hon Michael Mischin, but nothing had happened. The introduction of the legislation did not prompt anxiety, even though it was introduced in the midst of the COVID pandemic.

It is fair to say that my criticism of Hon Nick Goiran in my grievance to the Attorney General prompted a response. This legislation was introduced in the Legislative Council and we are now dealing with it in the Legislative Assembly. I was interested to read Hon Nick Goiran’s response, because he quickly rushed to his own defence, saying that he was now supportive of this legislation and saw it as an important development, and that it was disingenuous for me to suggest that he was opposed to the legislation. I note that his contribution was made on 16 March, just so members can refer to it in the *Hansard*. The difficulty I have with that proposition is that when he said that he was speaking in support of the legislation, Hon Nick Goiran in fact spent a large proportion of his contribution criticising the legislation.

[Member’s time extended.]

Mr S.A. MILLMAN: He said that he supports the legislation, but we need to look at the context in which he said that. We cannot just look at the fact that he said that he supports the legislation; we need to look at everything he said. He criticised the legislation. It is as though he wanted to say that he did not support it but was required to say that he did. It would be great to see him express some unequivocal support for the legislation rather than the bet each way that we saw in his contribution back in March. Fair cop, he was not the shadow Attorney General at the time the sunset clause was introduced. He was the shadow Attorney General at the time that I made the grievance and I thought that he would perhaps stay the shadow Attorney General. There was no point in me condemning the actions of the former shadow Attorney General, Hon Michael Mischin. As far as his contribution to public life is concerned, I think the Liberal Party determined what it thought when it put him last on its upper house ticket for the North Metropolitan Region. Even though he stood for re-election, he had no prospect of success. There was no point in me condemning Hon Michael Mischin because the Liberal Party had taken care of that for me without any hassle. As for Hon Nick Goiran, he was the shadow Attorney General at the time. Perhaps appropriately, rather than having Hon Nick Goiran, a lawyer, as shadow Attorney General, the member for Vasse prefers that a non-lawyer be the shadow Minister for Justice, being Hon Tjorn Sibma. He also made a contribution in response to my grievance, I suspect to ensure his preselection. I think Hon Tjorn Sibma will do well. It speaks volumes that the Liberal Party would rather have a non-lawyer as their shadow Minister for Justice than have Hon Nick Goiran as its shadow Attorney General.

I will come back to the legislation. I come back to this point, because I was talking about the shadow cabinet. When members think about the fact that we have had now Hon Stephen Dawson as Minister for Medical Research, a minister whom I know is passionate and excited about this particular portfolio, and before him the Minister for Health was also Minister for Medical Research and before that Roger Cook was Minister for Medical Research, we can see that the McGowan Labor government, since its election in 2017, and now the Cook Labor government, has always put a great priority on medical research. It is a shame that the opposition does not have a shadow Minister for Medical Research. It would be a great move on its part if it were to embrace the importance of medical research. Opposition members talk a lot about how important the health system is to them. They should understand, as anyone who has any experience in this field of endeavour knows, that you cannot continue to maintain a world-class health system unless you have the world-class medical research that underpins that. If the Liberal Party is genuine about its commitment to medical research, which it says it is, but actions speak louder than words, perhaps it should introduce a shadow Minister for Medical Research.

The final point is that this is something the government has always been committed to. I want to refer back to the sustainable health review, which is the blueprint for the Cook Labor government and before that the McGowan Labor government, to address the disastrous state of public health in Western Australia that we inherited from the

former Liberal–National government. As I said yesterday when I was talking about vocational education and training, a lot of the problems that we have inherited are flowing into the system now. They have been a long time coming to maturity. We were left with a legacy of neglect from the previous Liberal–National government. Opposition members will argue next year that we have been in office for eight years and so every problem that is presented in the community should have been addressed by now, but that fails to understand and appreciate the fact that a lot of these issues take a long time coming through into the system. I come back to the sustainable health review, which was our first effort to really put our health system on a solid foundation, because medical researchers will tell members that we cannot have a children’s hospital that has asbestos in the roof and lead in the water. That is one of the good things about having medical research. We know that asbestos in the roof and lead in the water is no good for you. The sustainable health review was one of the initiatives that we put in place to make sure that we put our health system on a solid foundation. As I said before, the emphasis in that document on research was right at the front. More than 100 times in many of the strategies and the enduring recommendations that had been put through refer to research funding, research translation, alignment, collaboration, working across jurisdictions, working between health service providers and working with consumers and clinicians—research, research, research. We cannot have that ecosystem and a research-orientated environment unless we have the legislative framework in place that encourages, promotes and fosters that research endeavour. That is why I have spoken often about this legislation and our medical research fraternity. I am incredibly grateful for the work they do serving the community of Western Australia and for the work they did to help us steer through the COVID pandemic, but I know we have to make sure that we take away the barriers that prevent them from doing world-class research and great work. Let them go to it. Let them direct their energy, effort, passion and commitment for the benefit of all Western Australians. That is why I have absolutely no hesitation in supporting this legislation. I commend them for their work and I commend the Attorney General for bringing this legislation before the Parliament. I hope that this legislation will mark the moment in time when the Liberal and National Parties recognise the importance of medical research and perhaps will have a shadow Minister for Medical Research. With that, I commend the legislation to the house.

MR J.R. QUIGLEY (Butler — Attorney General) [1.24 pm] — in reply: I rise to thank members for their contributions to the Guardianship and Administration Amendment (Medical Research) Bill 2023. Members will recall that we last considered this bill in June before the house rose for the winter recess, it having been introduced and thoroughly scrutinised by the other place in March. When we last spoke about this bill, the Leader of the Opposition indicated his support for it and noted there had previously been extensive scrutiny of the bill’s purpose and intent in the other place. We had discussed at some length the impending sunset clause that affects the current ability for researchers to enrol people in urgent research in specific circumstances but it bears repeating. If this house does not consider and pass this bill before April next year, new research projects under part 9E of the Guardianship and Administration Act 1990 would not be able to commence in Western Australia and would have missed out on more vital medical research funding. Although the fact is that the bill will pass, the longer we wait, the more we prolong any uncertainty and potential reluctance for researchers to invest their time and expertise in our state.

Having made both those points, I will now turn to respond to the comments made by members when we last debated this bill. Firstly, I thank the member for Riverton for his contribution to the debate on this bill and in particular for sharing with the house his valuable insights from his perspective as a very experienced doctor. The member touched on the practical difficulties facing medical researchers, who often go above and beyond to provide the best care to patients in emergency situations. Contributions from members with practical experience like this always serve to remind us of the importance of our work here in Parliament.

I also acknowledge the member for Cockburn’s comments on the bill, in which he outlined the importance of medical research and the public health system and how it drives innovation in all fields of medicine and health care. I noted the member for Mirrabooka’s comments on the history of the bill and appreciate her indicating her support for the legislation. I thank the member for Mount Lawley for his fine contribution in which he outlined his support for the bill. The parliamentary secretary’s contribution to the debate on this bill that I have introduced were always considered and erudite, and I take this opportunity to acknowledge his analysis of the bill’s genesis and provisions.

I now turn to the contribution of the opposition. I again thank the member for Moore for his comments and his support for this bill. During his speech on the bill back in June, the member for Moore noted the important ethical considerations that underpin the bill’s genesis and the cautious and conservative approach that the legislation takes to medical research. As the member pointed out, the legislation was initially part of a package of urgent legislation passed by the former Parliament during the early days of the coronavirus pandemic in 2020. It was amended in the Legislative Council, resulting the addition of the recurrent review clause and a sunset clause that we are dealing with in this bill. I note that those amendments were supported by the government. Following its passage, the 2020 act was subject to a review by the Standing Committee on Legislation in the other place. That committee undertook extensive consultation and produced a comprehensive report. I take this opportunity to acknowledge the work done by that committee in respect of the 2020 act that has led us to the bill before the house today. Following

that, the Department of Justice conducted the first statutory review of the 2020 act. The review was governed by the project reference group, which comprised a number of subject matter experts, resulting in the production of a widely disseminated discussion paper and a review report that I tabled in this place in February this year alongside the introduction of this bill. The recommendations in that report are reflected in this bill.

I also take this opportunity to remind the house that the next review of this important legislation is scheduled to commence in April 2024, and then in 2027 and so on at three-yearly intervals. I hope that these recurrent review requirements give some comfort to the Leader of the Opposition, and, indeed, all members, that this bill will strike an effective balance between protecting those vulnerable members of our community and permitting medical research to continue in Western Australia. It will be continually revisited to ensure that the act is acting appropriately. I commend the bill to the chamber.

Question put and passed.

Bill read a second time.

[Leave granted to proceed forthwith to third reading.]

Third Reading

Bill read a third time, on motion by **Mr J.R. Quigley (Attorney General)**, and passed.